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*** Notices to Subscribers and Contributors will be found on page vii.

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Current Topics.

Judicial Heredity.

IN MANY, probably in most, walks of life it is common to find a son following in the business or professional footsteps of his father. Naturally it is so, for the son is brought up in the same atmosphere as the father, and on that account becomes interested in the same questions as his sire. To this general rule the profession of the law is no exception, for we have numerous instances of the son of a successful barrister or solicitor following, and often successfully, the same vocation as his father. It is, we suppose, the operation of the same law by which we find numerous instances of judicial heredity. Of this we have a fresh instance in the appointment of Mr. Justice MACNAGHTEN, who, as we have already noted, is the son of a distinguished law lord. But has it been noticed how many of the High Court judges at the present time illustrate the rule to which we have been calling attention? In the Court of Appeal the Master of the Rolls and Lord Justice RUSSELL are descendants of distinguished judges. In the case of the Master of the Rolls, it is true his father was not a judge—his father was a Master of the Supreme Court—but his grandfather, of whom by the way he is preparing a biography, was for many years Chief Baron of the Court of Exchequer. In the Chancery Division, Mr. Justice ROMER is the son of a judge; while in the King's Bench Division no fewer than three occupants of the Bench are the sons of judges—Mr. Justice FINLAY, Mr. Justice CHARLES and Mr. Justice MACNAGHTEN. By far the most interesting example of judicial heredity in England was, however, in the case of the COLERIDGE family, which gave three of its members in a direct line to the Bench.

Peaceful Picketing.

THE CASE of *R.* v. *Jones*, reported in *The Times* on 18th December, indicates the very considerable change in the law made by the Trade Disputes and Trade Unions Act, 1927. The defendant, a trade union official, went up to a non-union man at work and told him that, unless he joined the union, pressure would be brought on his employers to dismiss him. This of course was done with the view to compel the man to join the union, an act which he had a legal right to abstain from doing. There was, however, no threat of violence, and it was expressly held in *Gibson* v. *Lawson*, 1891, 2 Q.B. 545, that such conduct was not "intimidation" within s. 7 of the Conspiracy and Law of Property Act, 1875. Section 3 (2) of the Act of 1927 defines "intimidation" as including anything which may cause in the mind of the person addressed a reasonable apprehension of injury in respect of his employment or other source of income, and sub-s. (3) applies this definition to the section in the earlier Act. The defendant's threat, therefore, was plainly within the amendment of the Act of 1875 made by that of 1927, and the Court of Criminal Appeal so held. Having regard to the very considerable licence given to traders and the employing classes to threaten loss of income and customers in order to enforce their wills, as appears in *Sorrell* v. *Smith*, 1925, A.C. 700 ("A threat to effect a purpose which is in itself lawful gives no right of action to the person injured") it seems open to question whether the law so altered maintains a fair balance between employers and workmen. Section 3 (1) of the new Act, it may be noted, appears to revive *Lyons* v. *Wilkins*, 1899, 1 Ch. 255, to apply even in the case of a trade dispute, and thus, if not to repeal s. 3 of the Trade Disputes Act, 1906, seriously to diminish its scope.

Illegal Christmas Cards.

IT SEEMS incredible that a token of goodwill, such as a Christmas card, could be the subject of a prosecution, yet this might be the result of contemporary enterprise in stationery. Books are on sale which look like cheque books, and contain twelve documents worded somewhat as follows:—

No. 28/29. 25th December, 1928.

Bank of Joy and Goodcheer Unlimited.

Pay

Fifty-two happy weeks

£52/happy/weeks.

The printing and coloured background for the signature render it necessary to look twice before realising that the above are not blank forms of cheques, and the illusion is increased by a blue oval in the top right-hand corner marked "Good wishes," but occupying the place of the 2d. revenue stamp, while on the left side there is a scroll work surrounding a pair of clasped hands. The question is whether the above documents infringe the Criminal Justice Act, 1925, s. 38, which provides that if any person makes or uses for any purpose whatever or utters any document in any way resembling (or so nearly resembling as to be calculated to deceive) any currency or bank note, he shall be guilty of an offence and liable to a fine of £5, and "bank note" has the same meaning as in the Forgery Act, 1913, s. 18, viz., any note or bill of exchange of the Bank of England or of any other person or company carrying on the business of banking. Although cheques are not specifically mentioned, the above section is wide enough to include a bill of exchange drawn upon a banker payable on demand,

i.e., a cheque. Intention is also not an ingredient of the offence, as "calculated to deceive" means likely to deceive and not intended to deceive, and as all imitation is forbidden by the section it is not necessary to specify any particular bank in regard to which the public may be misled.

Hindu's British Wife.

A SCOTTISH woman, who, as a girl of seventeen, fell in love with and married a Hindu in Scotland, the marriage being duly and legally celebrated according to the Presbyterian form, has just obtained annulment of it by the Court of Session. The reason given was that the marriage of a Hindu with a woman outside his caste was not recognised by Hindu law, and (apparently) that the husband deceived his wife in the matter. Lord MACKAY observed that the marriage was good in Scotland and probably in all the rest of the world except India, but, although he felt hesitation and difficulty, he was prepared to hold that the marriage failed because of a substantial error on the part of the wife induced by the husband. The corresponding English authority is *Chetti* v. *Chetti*, 1909, P. 67, with a diametrically opposite conclusion, namely, that such a marriage is valid. It is true that the point as to deceit was not taken in *Chetti* v. *Chetti*, but it could hardly have succeeded; intending husbands and wives constantly deceive each other as to their prospects and financial status, and in *Moss* v. *Moss otherwise Archer*, 1897, P. 263, even concealment by a woman that she was pregnant by a man other than her husband at the time of marriage was held immaterial. If the intending wife in the present case had really wanted to know her status in India, it is difficult to understand how the young Hindu could have deceived her; probably the Presbyterian minister who officiated, or any other responsible person, would have been only too glad to tell her the truth, and so head her off from disaster. The present case may therefore be considered in direct conflict with *Chetti* v. *Chetti*, where the late Lord GORELL, then BARNES, P., followed his own decision in *Ogden* v. *Ogden*, 1908, P. 46. The latter was a case of great hardship; a young Frenchman, under age, had married an English girl in England, without the consent of his parents, who procured the marriage to be annulled in France. Lord GORELL held that, the ceremony being valid by English law, the marriage was valid here, notwithstanding the bridegroom's domiciliary disability. The consequence was that the wife remained bound in England, and, although the husband had married another woman, could not procure divorce, for the English court disclaimed jurisdiction by reason of the husband's French domicile, and the French courts could not, of course, dissolve a marriage which, by their annulment, they held to be non-existent. The view may be here expressed that the Scottish judge's decision is the better; no doubt it is wrong for foreigners to deceive English girls, but the English doctrine is apt to inflict further great hardship on them, and the foreigners when back in their own countries can simply ignore both the strictures and the orders of the English divorce judges. The Scottish girl has in fact got good riddance of bad rubbish, and it seems a pity that our own foolish maidens who marry dusky and dishonest Asiastics cannot obtain similar deliverance.

Furnishing False News to Newspapers.

THERE ARE legends which have come down to us from mid-Victorian times of penny-a-liners who made a lucrative business by sending to the newspapers long descriptions of purely imaginary fires and accidents of various kinds, and subsequently equally lengthy contradictions of the alleged occurrences, and in due time being paid for both contributions. Whether there was any foundation for the stories that were current regarding this ingenious, though unlawful, means of earning what was called linage we do not pretend to assert. If the practice ever existed in fact in this country, it has happily long ceased; journalists, even of the humblest ranks, would regard such malpractices as unworthy of their vocation, and newspaper proprietors and editors are much more vigilant than were their predecessors of a generation or two ago in investigating the authenticity of contributions. A recent case in Alberta, however, shows that the reprehensible practice of furnishing false news to a newspaper is not universally extinct. In *Calgary Herald* v. *Barnes Corporation*, 1928, 3 W.W.R. 543, WALSH, J., in the course of his judgment, said: "I think it is undoubted that one of the most valuable assets of any newspaper is its reliability, and anything which seeks to undermine the confidence of the public in a newspaper as a purveyor of public news is something which is wrong. One who intentionally and fraudulently causes a newspaper to become the innocent disseminator of false news does it a wrong for which it is entitled to recover in damages." Then, after dealing with the circumstances in which the false news was sent by the defendants, and printed in all good faith by the plaintiffs, the learned judge had to consider the measure of damages to be awarded for the wrong done. As he pointed out, the case was one of those where from the very nature of the wrong it was impossible to estimate in money the damage to the newspaper or even to show that in a pecuniary sense any damage had accrued; but he considered that, from the very nature of the wrong, harm, although perhaps intangible and unassessable in any precise money equivalent, must have ensued, and, further, that in such a case the punishment of the wrong-doer was an element to be taken into consideration; in other words, that the case was one in which compensatory or punitive damages could be awarded. Accordingly he gave judgment in favour of the plaintiff newspaper for $2,500, with costs. This seems good sense, and we believe it to be equally good law.

Safeguards to Traders.

THE ABOVE is the statutory description of s. 12 of the Sale of Food (Weights and Measures) Act, 1926, according to the marginal note, and the accuracy of this is shown by two recent cases. At Stratford the Essex County Council took proceedings in respect of alleged short weight in the sale of milk, the first defendant being the owner of a dairy at Dagenham, where he employed a manager to conduct the business. The second defendant was a carrier employed by the first defendant, and a soldier in the company of the second defendant had served a woman with milk which was 4 ounces short in a quart. The first defendant stated that he had given his manager strict instructions to carry out the regulations, as he himself knew nothing of the milk business, which was only an investment. It was submitted on his behalf that the milk was served by the soldier, a person not in his employ, and as the soldier was therefore not under the control of the first defendant the latter was exonerated from blame under the above s. 12 (2). The case against the first defendant was dismissed, and the second defendant was fined 40s. At Taunton a baker was charged with having in his possession certain loaves, each of which was not 1 lb. or an integral number of pounds in weight as required by s. 6 of the above Act. An employee of the defendant had been out delivering, and twenty-one new loaves out of twenty-two were deficient in weight, and the other one was 6 drams over weight, the total deficiency being 22 ozs. 14 drams, an average of just over 1 ounce. The defendant invited the inspector to weigh other bread on sale at the shop, and seven out of nine loaves were found to be under and two others were 4 drams over weight, although all the dough had been weighed in at 2 lbs. 2½ ozs. per loaf. The inspector's evidence was that 2 lbs. 4 ozs. was usually allowed for tinned bread and 2 lbs. 3 ozs. for other loaves, but the defence was that the bread had taken unusually long to bake as the oven was slow, and a greater loss of moisture and weight had resulted. The case was dismissed on the ground that the deficiency was due to accident within the above Act, s. 12 (2), there being no desire or intention to sell short weight.

Landlord and Tenant Act, 1927.

By S. P. J. MERLIN, Barrister-at-Law.

IX.—(*Continued from* p. 853.)

The Conduct of a Claim by a Tenant for Loss of Goodwill—with Suggestions as to Necessary Evidence.

Two months must elapse after the tenant has served his claim for compensation on the landlord before he can take any further step in the County Court. It then becomes open to him to commence proceedings by plaint and ordinary summons (see O., L.B., r. 5). Care should be taken to formulate the claim correctly in accordance with O., L.B., r. 2. It is essential to state the amount claimed as compensation. There is no exact method prescribed for estimating the value of the "goodwill" to which the Act has regard. It is safer in these cases as it is in most cases of tort to claim too much in the first place than to have to apply to amend if need arises. In most cases the practice has been followed of claiming a sum equal to one, two or more years' profits as the value of this goodwill. It, of course, depends largely on the class of business in question, but in the average trade a claim of two or three years' profits would be on the safe side and would not be open to the criticism of being grotesquely extravagant.

It is well for the tenant to give full particulars in his claim, for this reason, that if the landlord does not within fourteen days of the service on him of the summons file a statement of the grounds of his defence, these particulars shall be deemed to be admitted, unless the court otherwise orders. (See O., L.B., r. 9.)

When proving his goodwill the tenant would be well advised (in all cases of any complexity) to secure one first-class accountant to do so. As a rule only one expert witness is allowed before a referee. But as Judge TARRANT decided in an interlocutory application in the case of *The Cambridge Chronicle* v. *Kane*, 72 SOL. J., p. 720, this rule does not apply to cases heard by the court itself. (See s. 21 (4).)

As a rule it is not very difficult for a tenant to adduce evidence which will prove a *primâ facie* case for compensation for loss of goodwill. His difficulties usually arise out of one or more of the defences which are open to the landlord under the express provisions of s. 4 itself. Although not one of these defences may form a complete reply to the tenant's claim, several of them cut very seriously into the quantum of the amount he may recover.

For example, in proviso (*a*) to s. 4, sub-s. (1), it is laid down that the sum to be awarded as compensation for goodwill shall not exceed such addition to the value of the holding at the termination of the tenancy as may be determined to be the direct result of the carrying on of the business of the tenant or his predecessors in title, and in determining such addition the tribunal shall, if it is proved *that the premises will be demolished wholly or partially, or used for a different or more profitable purpose*, have regard to the effect of such demolition or change of user on the value of the goodwill to the landlord.

Furthermore, it is provided that the tribunal shall (1) in determining the amount of compensation for goodwill have regard to the intentions of the tenant as to carrying on *the* business elsewhere, and (2) disregard any value which is attributable *exclusively* to the situation of the premises, and (3) have regard to the question whether the "goodwill" has been created or increased owing to restrictions imposed by the landlord, upon the letting for a competitive trade or business of other premises in the neighbourhood owned by or under the control of the landlord.

These provisions are, in many cases, formidable matters for the tenant to deal with, and the evidence necessary for their rebuttal will, of course, vary with the circumstances of each action. The tenant and his advisers should, however, always remember that the title of the statute says that it is an Act to provide for the payment of compensation for improvements and goodwill to tenants of premises used for business purposes, and that the onus is usually on the landlord to bring himself clearly and completely within one of the exceptions in s. 4 before he can extinguish or even reduce the tenant's claim for compensation thereunder.

The Street Offences Report.

I.

THE long awaited report of the Street Offences Committee has arrived, and there is a surprising measure of unanimity in their recommendations. The reservations are by no means unimportant, but for the most part they leave unaffected the main proposal of the Committee.

As was to be expected, the Committee's enquiry rapidly resolved itself into an investigation, not into street offences generally, but into street offences involving sex immorality, and the report concerns itself almost solely with the latter. Our articles will deal with nothing else.

The main proposal of the Committee is the repeal of all the existing general and local legislation in England and Scotland relating to solicitation between the sexes, and the substitution of an enactment of general application to both sexes.

It will enable our readers to follow our comments if we insert here the draft clause, followed by an additional proviso suggested in one of the memoranda of reservation:—

"(1) Every person who in any street or public place importunes any person of the opposite sex for immoral purposes shall be guilty of an offence. In this section the term 'importunes' shall be construed as referring to acts of molestation by offensive words or behaviour.

"(2) Any person who frequents any street or public place for the purpose of prostitution or solicitation so as to constitute a nuisance shall be guilty of an offence:

"Provided that no person shall be convicted of an offence under this section except on the evidence of one or more of the persons aggrieved."

* * * *

"Provided always that words or behaviour shall not be considered as offensive solely because such words or behaviour express a request or willingness to commit an act of immorality."

With optimism rather surprising in the legal members of the Committee, they refer to this proposed enactment as "simple," but their draft contains fresh terms which will require judicial interpretation, and on close analysis these terms are seen to involve certain consequences which it may be the Committee foresee, but which will be unwelcome to a number of our legislators if they are acute enough to discover their possibility.

The equality of the sexes is the note of the new proposals, but, with some lack of consistency, which one may suspect was sacrificed to obtain general agreement, they propose to retain the provision of the Vagrancy Act dealing with "riotous or indecent" prostitutes, and also to preserve the specially severe punishment for male prostitutes and the refusal to them of trial by jury.

Upon the latter we would only remark that the deprivation of trial by jury is in principle unsound, and so far from being the deliberate act of Parliament was enacted in terms that few could understand, so difficult indeed to interpret that the High Court had to be invoked by a case stated to say what they meant.

The retention of the provision as to riotous and indecent prostitutes is justified by the Committee on the ground that it has nothing to do with soliciting, and a decision at the Liverpool Quarter Sessions is invoked as authority for that proposition. The decision is, of course, not binding, and as

Miss Kelly and Mrs. Morison Millar point out in their memorandum of reservation, has been very much ignored. Were the effect of the decision in *R.* v. *Duke and Others*, 1909, 73 J.P. 88, embodied in the Bill to give effect to the Committee's proposals, as a proviso to the relevant provision of the Vagrancy Act, there would be nothing to be said against the latter's retention.

The draft provision set forth by the Committee is designed, as they explain, to substitute the objective test of the behaviour of the alleged offender in "importuning" (which involves the idea of continued offensive action), for the subjective test of the state of mind of the person solicited. This is thoroughly sound. Nothing is more idle than to guess at the frame of mind of another person. It leads only to "parrot" evidence, with stock phrases as to annoyance.

In this respect the new provision is satisfactory enough, but it requires the additional words proposed in the first memorandum of reservation to make it watertight.

The Committee point out, what all conversant with the matter know, that to prohibit conviction on police evidence alone would, in such matters, make any law a dead letter, but they emphasise the desirability of obtaining lay corroboration wherever possible. Indeed, under the second part of their draft section they make the evidence of the person or persons aggrieved a *sine qua non*.

It is not difficult to prophesy that if that draft section be enacted unaltered there will be a great reduction of prosecutions. In any case the first part of it wants re-casting to make clear that the importunity may consist, not only of repeated applications to one person (which is what it seems to indicate), but of a course of conduct which might be described as persistent offensive accosting of persons of the opposite sex generally. The man who offensively accosts a number of women is as much a nuisance as the man who keeps on offensively accosting one woman; and persistency in a prostitute is as grave if manifested by offence to a number of men, as by repeated offence to one man. The required interpretation could be secured by the addition of a very few words.

The Committee recommend an ascending scale of punishments beginning with a fine of forty shillings and going on to imprisonment without the option of a fine.

The general unanimity of the Committee's conclusions favours the chances of legislation, but we can be fairly sure it will not find a place in the over-burdened programme of a legislature so near its term as the present Parliament.

Auctioneer's Authority to Sign Note or Memorandum.

THE Court of Appeal have affirmed the decision of Mr. Justice MAUGHAM in *Chaney* v. *Maclow*, *Times*, 6th inst., and this case may be regarded as a leading case on the extent of the authority of an auctioneer to sign a contract on behalf of the purchaser at an auction for the purpose of satisfying the Statute of Frauds.

In the above case a lot was knocked down to the defendant as the highest bidder at £650. The auctioneer left the auction mart at the end of the auction and returned to his offices. He was then informed that the defendant refused to sign the contract because of certain road-making charges which the purchaser would have to pay, and thereupon he immediately signed the memorandum as agent for the defendant.

Two points were advanced in support of the contention that there was no sufficient note or memorandum for the purpose of satisfying the Statute of Frauds, firstly that the extent of the authority of an auctioneer was confined to entering in his own interleaved conditions of sale the name of the bidder and the amount of his bid, and secondly that the auctioneer had only authority to sign at the time of the sale.

There are certain passages in *Emmerson* v. *Heelis*, 2 Taunt. 38, and in *White* v. *Proctor*, 4 Taunt. 209, which appear to support the first point. Thus in *Emmerson* v. *Heelis*, MANSFIELD, C.J., said (*ib.*, at pp. 47 and 48): "Now this memorandum is more particular than most memorandums of sale are, and upon it the auctioneer writes down the purchaser's name. By what authority does he write down the purchaser's name? By the authority of the purchaser. These persons bid and announce their biddings loudly and particularly enough to be heard by the auctioneer. For what purpose do they do this? *That he may write down their names beside the lots.* Therefore he writes the name by the authority of the purchaser, and he is an agent for the purchaser."

Again, in *White* v. *Proctor*, 4 Taunt. 209, a paper with various columns, including the number of the lot, and spaces for the purchase price and the purchaser's name, were exhibited to the bidders, and on a lot being knocked down to the defendant's agent, who was bidding for him, the auctioneer putting down the price and the name of the bidder in the respective columns in the particular pieces of paper. It was held that this was a sufficient signature to satisfy the statute.

In his judgment MANSFIELD, C.J., said: "It was held [in *Emmerson* v. *Heelis*, *supra*] that entering the name of the buyer in the auctioneer's book was just the same thing as if the buyer had written his own name. There is no distinguishing the two cases, here the auctioneer writes down the name of the buyer and therefore that is sufficient."

If these dicta, however, are to be construed as meaning that extent of the authority of the agent is limited to signing the auctioneer's book or other paper which the auctioneer may be using at the time of the sale in connexion therewith, they must be regarded as unduly restricting the authority of an auctioneer, and it is quite clear from the judgment of the Master of the Rolls in *Chaney* v. *Maclow* that the authority extends to providing any evidence (not limited, therefore, to the auctioneer's book) sufficient to render the contract entered into effective.

As regards the second point, as to the time when the memorandum may be signed by the auctioneer so as to bind the purchaser, it has been held in *Mews* v. *Carr*, 1 H. & N. 484, that a signature a few days after the auction was not sufficient, and the test in every case must be whether the signature can be regarded as part of the transaction of sale, and this again would appear to be a question purely of degree and a question of fact.

Thus in his judgment the Master of the Rolls said: "It seemed impossible to lay down every exact point at which the authority ceased. It was a pure question of degree, and, therefore, a question of fact."

And on the facts the Court of Appeal held that Mr. Justice ROWLATT was right in holding that the auctioneer acted reasonably in going on to his own office to complete the sale, and that his signature could fairly be held to be part of the transaction of sale, and that accordingly it was still within his authority to sign the contract when he did, as he was then still acting as auctioneer with regard to the sale.

A Conveyancer's Diary.

Implied Covenants in Assignments of Leaseholds.

One of the advantages conferred on conveyancers by the Law of Property Act, 1925, is the implied covenant contained in s. 77 (1) (*c*), and Sch. II, Pt. IX, of that Act. Yet, strange to say, considerable diversity of opinion exists as to whether the non-execution of the assignment by the assignee deprives the assignor of the full benefit of the covenant. In some cases the covenant is still set out at length. In others a declaration is inserted stating that the implied covenant shall be incorporated in the deed. Whilst there are still others who, relying

absolutely on the provisions of the section, make no reference to the implied covenant whatever. Where the covenant is set out at length the assignment is, of course, executed by the assignee, but where it is not so set out, the execution of the deed by the assignee is generally, but not always, insisted on.

The writer's own view is that, having regard to the unmistakeable clearness of the language employed by the Act, there is no necessity for the assignee to execute the deed at all, but as two very eminent legal authors have expressed a contrary opinion, it is necessary to investigate the matter a little more closely. This cannot be done very satisfactorily without invoking the assistance of the law on the subject as it existed before the Birkenhead legislation came into force.

In the first place the original lessee could never get rid of his liability even by assigning to another. Consequently the law gave the assignor the right to call for an express covenant by the assignee to observe and perform the lessee's covenants in the lease: *Staines* v. *Morris*, 1812, 1 Ves. & B. 8; *Morley* v. *Clavering*, 1861, 7 Jur. N.S. 904.

Secondly, if there was no express covenant, the law imposed on the assignee an implied obligation to indemnify the lessee in respect of breaches committed during the period he occupied as assignee: *Wolveridge* v. *Steward*, 1833, I.C. & M. 644; *Crouch* v. *Tregonning*, 1872, L.R. Ex. 93.

Similarly an assignee of a lease by mesne assignments was bound to indemnify the lessee in respect of breaches committed during his own tenancy even though he was under no express contract to do so: *Moule* v. *Garrett*, 1872, L.R. 7, Ex. 101.

It will therefore be seen that in the absence of an express covenant the obligation implied by law only bound the assignee for breaches committed during the period he was actually possessed of the leasehold interest. It did not extend to the breaches after he had parted with that interest. His liability (except for previous breaches) therefore ceased immediately upon his assigning to another. The implied covenant was consequently not relied upon on practice but, in lieu thereof, it has been the custom for many years to require the assignee to enter into an express covenant for indemnity. Where the express covenant was employed it was of course necessary in order to bind the assignee that the deed should be executed by him.

Having briefly reviewed the position as it existed immediately before the 1st of January, 1926, it is essential to consider what bearing the Law of Property Act, 1925, has on the subject.

By a parity of reasoning the two learned authorities referred to above contend that inasmuch as the obligation implied under the old law did not bind the assignee after he had parted with his interest in the property, it follows that unless the assignment is executed by the assignee the covenant implied by s. 77, is likewise limited to breaches committed during the continuance of his own interest only.

The writer submits, with great respect however, that this contention is misleading, if not entirely erroneous, for the following reasons:—

(1) Section 77, (1) (*c*) distinctly states that the covenant shall be deemed to be included and implied in every assignment other than mortgages without imposing any obligation on the assignee to execute the deed.

(2) That the limited obligation or indemnity imposed on an assignee under the old law, where no express covenant was entered into, bound the assignee for breaches committed during his own ownership, whether he executed the deed or not.

(3) That s. 77 further states that the assignee or the persons deriving title under him shall be liable for breaches committed during the residue of the term.

The result therefore seems to be that as the implied covenant is deemed to be read into the deed, the assignee is bound in the same way as if the assignment actually contained an express covenant, in the same terms as the implied statutory covenant, and the deed had in fact been executed by the assignee. Surely the implied covenant which, by the terms of the section, must be deemed to be read into the deed is a complete covenant, that is to say, it must be deemed to be notionally executed by the assignee, otherwise it would not be a covenant in the true sense of the word. Moreover the implied covenant renders the assignee or the persons deriving title under him responsible for the fulfilment of the lessee's covenants throughout the remainder of the term. In other words if the persons deriving title under the assignee do not perform such covenants then the assignee is liable for breaches committed by them, although he has no longer any interest in the lease. It is therefore difficult to see in what way the non-execution of the deed by the assignee limits his liability to breaches committed during his ownership only.

The writer's view is supported by the "Encyclopædia of Forms and Precedents," vol. 15, 2nd ed., p. 987, which says that the express covenant may be omitted and reliance placed on the statutory implied covenant to the like effect, but it does not state that the full benefit of the implied covenant will be lost if the deed is not executed by the assignee.

Furthermore, by s. 24 of the Land Registration Act, 1925, a similar covenant is implied by the transferee in respect of registered land unless negatived by an entry on the register.

So far therefore from the assignee or transferee not being bound during the residue of the term unless he executes the deed, it will be seen that where the assignor has not entered into an express covenant with the previous owner or is not bound in respect of future breaches, care should be taken to ensure that the implied covenant is negatived or modified.

Whilst on this subject it may not be out of place to call attention to the fact that a personal representative, liable as such, could not under the old law get rid of his liability for future breaches committed after he had parted with the leasehold interest unless he assigned to a purchaser or where in an administration action he had placed all the circumstances before the court. This has now been altered by s. 26 of the Trustee Act, 1925, which extends the protection against further liabilities formerly afforded by s. 27 of the Law of Property Amendment Act, 1859, to cases where the property demised by the lease is assigned not only to a purchaser, but also to a legatee, devisee or other persons entitled to call for a conveyance thereof.

Landlord and Tenant Notebook.

Dwelling-house or Business Premises (*continued from p. 855*).

We were considering in our last issue the tests to be applied in determining whether premises are to be regarded as constituting a dwelling-house or business premises.

It is important to note as well that premises which were originally a dwelling-house, or which were originally let as such, may by agreement and user be converted into business premises, and *vice versa*.

Williams v. *Perry*, 40 T.L.R. 539, is the authority on the point. In that case premises which were originally within the Rent Acts were subsequently let under the express arrangement that they were only to be used for business purposes, and not as a dwelling-house. It was held that the premises had by reason of the agreed user thereof been converted into business premises.

In his judgment in that case Swift, J., said: "I see no reason whatsoever why the premises, at one time a dwelling-house and within the Act, should not at another time be business premises and outside the Act." And this conversion may be effected notwithstanding the provisions of s. 12 (6) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, which provides that "where the Act has become applicable to any dwelling-house or any mortgage thereon, it

shall continue to apply thereto whether or not the dwelling-house continues to be one to which this Act applies." Dealing with the effect of this sub-section, Mr. Justice Swift pointed out in *Williams* v. *Perry* that "the sub-section does not say that where the Act is applicable to any dwelling-house it shall continue to apply to a *factory* into which it has been converted." "I see no reason," he added, "why a dwelling-house should not be converted into business premises just as much by the agreement of the parties and by the user of the premises as by structural alteration."

A further question arises as to whether the character of premises can be altered by their subsequent user for a different purpose, where such alteration in the use of the premises is made without the express consent of the landlord.

As far as I am aware, there is no case expressly in the point, but light on this question is thrown by the case of *Hyman* v. *Steward*, 41 T.L.R. 501.

In that case, unfortunately, the court came to the conclusion on the facts that there had been no sufficient change in the user of the premises as contemplated in the contract of the tenancy so as to justify the court in holding that there was a conversion of the premises into purely business premises, even assuming that it was open to hold as a matter of law that a dwelling-house might be converted into business premises by such user.

It is further unfortunate that dissenting opinions were given by the judges on the above question of law. Thus Salter, J., said: "I doubt whether the tenant, by his mere use or disuse of the demised premises, without the landlord's knowledge or consent, can either take a house out of the Act or bring a house within the Act . . . Assuming that the tenant can by his user of the demised premises 'convert' them from premises to which the Act applies to premises to which the Act does not apply, it is obvious that such user must be complete and unmistakeable."

On the other hand, Mr. Justice Greer appears to have taken a different view. Thus the learned judge said: "The words of the statute create very considerable difficulties of interpretation. If one looks at sub-s. (2) of s. 12 apart from the proviso it appears that you ought to ascertain whether or not premises come within the Act by seeing what the terms of the letting were. If one looks at the proviso, however, it seems as if you ought to look, not to the terms of the letting, but to the use to which the tenant has been putting the house. If the facts of this case had really raised that question there might have been considerable differences of opinion. I confine myself to saying that if there were a complete change of user, if the tenant had ceased altogether to use the premises as a dwelling-house and had used the whole of them for trade or business purposes, I am inclined to think that the premises would have been taken out of the provisions of the Act and could only be described as premises which were used for business purposes. If the landlord did not interfere and was in any way estopped by his acquiescence from preventing their use as business premises, it would be right to describe them as premises let for business purposes and not as premises let partly as a dwelling-house."

Our County Court Letter.

NUISANCE FROM FUMES.

In the recent case of *McGregor* v. *F. W. Woolworth and Co. Ltd.*, at Manchester County Court, the plaintiff claimed damages for breach of covenant contained in an agreement under which the plaintiff, a chartered accountant, was the tenant of offices in certain premises of the defendants. The plaintiff's case was that in less than three months after he entered into occupation, and before the tenancy expired, the offices were rendered unfit for occupation (*a*) owing to fumes and heat from the floor below, where the defendants installed a kitchen to serve a cafe in the basement, (*b*) owing to the obstruction of the stairs by bins of waste food and deposits of grease, which rendered the steps dangerous. The defendants' case was that there had been no breach of covenant, as the nuisance had been mitigated, and they counter-claimed for rent and a declaration that the tenancy agreement was still in full force. The evidence for the defendants was that as soon as they were notified they had mitigated the nuisance by new ventilation, but their expert witness admitted at the trial that fumes still escaped. His Honour Judge Leigh therefore visited the premises and held that in spite of the alterations the premises were not fit for a chartered accountant to occupy, and had not been so for the previous five months. The breach of covenant for that period therefore entitled the Plaintiff to damages amounting to £30 2s. 6d., and on the counter-claim it was held that the defendants were disentitled by their breach of covenant to any rent for the five months, but they were entitled to rent prior to the opening of the cafe, viz., £5 6s. 10d. Judgment was entered accordingly, no declaration being made as to the continued existence of the tenancy agreement.

The above was an exceptional case in that it arose between landlord and tenant, so that the plaintiff could base his claim on breach of covenant, whereas the usual cause of action is in tort and the claim is for nuisance. In *Sanders-Clark* v. *Grosvenor Mansions Company Limited and D'Allessandri*, 1900 2 Ch. 373, the plaintiff was the lessee of a first floor flat from the defendant company, and the second defendant was the lessee of the ground floor, where he conducted a restaurant. For the purposes of the business a large cooking range was installed in place of the small kitchen grate, and wire gauze was substituted for glass in the window, by reason of which the plaintiff alleged that an intolerable nuisance was caused by heat, noise and smell, and she therefore claimed an injunction. As in the first-named case, the nuisance was mitigated by thickening the walls of the flue, so that the nuisance by heat was removed, but the issue was tried as to whether the nuisance by noise and smell still existed. Lord Wrenbury (then Mr. Justice Buckley) held that the nuisance by noise was not proved, but that the defendant had not made a reasonable use of the building by cooking with the original flue, so that he was liable for the nuisance by heat before the walls were thickened. It was also held that the plaintiff had been unnecessarily exposed to the smell from the restaurant, which was unreasonable and a substantial interference with her comfort, but on the defendant undertaking to carry out certain improvements the learned judge made no order except as to costs. The action had been discontinued against the defendant company, which was the lessor to both the other parties.

The above question may arise not only between occupiers of different floors, but also between adjacent occupiers, as in *Adams* v. *Ursell*, 57 Sol. J. 227. The plaintiff was a veterinary surgeon, practising at a house next door to premises which the defendant had opened as a fried fish shop, and the odour pervaded all of the plaintiff's rooms. The vapour from the stove was like a mist in the house, and all but one of the residents within 60 yards had petitioned the district council for an abatement, but the medical officer had reported that there was no nuisance within the Public Health Acts. The defence was that the best appliances were used, that every care was taken, and that the smell did not amount to a nuisance, but Mr. Justice Swinfen Eady (as he then was) adopted an earlier definition of a nuisance, viz., an inconvenience materially interfering with the ordinary comfort physically of human existence, not merely according to elegant or dainty modes and habits of living, but according to plain and sober and simple notions among the English public. The learned judge, in granting an injunction, pointed out that because a fried fish shop is a nuisance in one place it did not follow that it would be in another, and he applied the injunction to the particular premises and not to the whole street as asked.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered gratis. All questions should be typewritten (in duplicate), addressed to—The Assistant Editor, 29, Breams Buildings, E.C.4, and should contain the name and address of the subscriber. In matters of urgency, answers will be forwarded by post if a stamped addressed envelope is enclosed. The Editor accepts no responsibility for the replies given.

Partnership—Undivided Shares—Conveyance of Deceased Partner's Interest to Surviving Partner.

Q. 1515. T.C. and G.W.C. purchased freehold property, consisting of a printing office, in 1902, and took a conveyance thereof in equal shares as tenants in common In 1912, they became partners in the business of printers and stationers under articles dated 31st December, 1912. The freehold printing office became part of the partnership property. By cl. 20 of the articles of partnership, it was provided that, in the event of the death of either partner during the continuance of the partnership, the personal representatives of the deceased partner should be entitled to receive from the surviving partner a sum equal to that which the survivor would have paid if he had been a purchasing partner, and that such personal representatives should not have the power to nominate any successor of the deceased partner in the partnership. T.C. died on the 3rd May, 1925, during the continuance of the partnership, and G.W.C., the surviving partner, has paid to the representatives of T.C. all moneys due to them in respect of the share of T.C., the amount, in fact, being ascertained before the coming into operation of the L.P.A., 1925. Having regard to cl. 20 of the articles before mentioned, is the case governed by s. 42 (6) of the L.P.A., 1925, and can the personal representatives of T.C., deceased, convey the undivided share of T.C., deceased, in the proceeds of sale to the surviving partner, G.W.C. ? If so, is it necessary for new trustees to be also appointed, and on such appointment will the legal estate vest in them ? Alternatively, must new trustees be appointed in the place of the Public Trustee and a conveyance executed by them to G.W.C. of the entirety of the property ? In the event of this latter procedure having to be adopted, it is assumed that the consideration payable by G.W.C. would be merely the value of the half-share of T.C., deceased, and the stamp duty *ad valorem* on this amount.

A. The case put seems to be covered by the answer to case 6, p. 94, of "Every Day Points of Practice." It appears clear that the legal estate vested in the Public Trustee and must be divested by an appointment of trustees by G.W.C. and the personal representative of T.C., the latter being persons interested : *Re Cliff*, 1927, 2 Ch. 94. Either (1) G.W.C. and another can be appointed trustees and the representative of T.C. sell to G.W.C. the latter's share of the proceeds of sale and then the other new trustee release to G.W.C. on full recital of equitable title, or (2) trustees other than G.W.C. can be appointed and they can sell to G.W.C. If in the latter event the representatives of T.C. joined to show their consent to sale and there was a recital that G.W.C. was entitled to half the proceeds of sale, the conveyance, it is believed, would be adjudged duly stamped on payment of duty on the half-share of sale money.

Settled Land—Appointment of New Trustee—Vesting Deed.

Q. 1516. A testator who died in 1899 by his will appointed A and B trustees and executors thereof and devised a freehold dwelling-house to his trustees upon trust for his daughter C for her life, and on her decease upon trusts for sale and division as therein mentioned. A died in 1908, and in 1915 B appointed D as a trustee of the will in the place of A. B died in 1918, and in 1928 D appointed E to be a trustee with him of the will, and although not so stated it is presumed that D and E having a trust for sale would be trustees for the purposes of the S.L.A. D and E have since signed a vesting assent in C, the tenant for life, and she as tenant for life is selling the property. Can the purchaser raise any objection to the title of C as thus made out, and if so on what grounds and how should the matter be put right.

A. Assuming that no person was nominated in the will to appoint new trustees, and assuming that by a "vesting *assent*" is meant a "vesting *deed*," the title is perfectly in order, and C can exercise her powers under the S.L.A., and D and E as trustees for the purposes of the S.L.A., can give valid receipts for purchase money. A vesting assent is applicable only to personal representatives (see s. 8 of S.L.A., 1925).

Personal Representatives—Conveyance.

Q. 1517. A testator, by his will made in 1927, and who died this year, devised his real estate to his trustees on trust for his wife for life, and after her death upon trust to sell. Probate was granted to the executors. The wife has entered into a contract to sell the realty as tenant for life. The land would seem to be settled land and a vesting deed should be executed. The vendor suggests that the executors can make a good title as personal representatives.

A. Title can only be made by the tenant for life after the execution of a vesting assent, as the land is settled, and pending a vesting assent the powers of a tenant for life are in suspense : S.L.A., 1925, s. 13. There seems no reason, however, why the title should not be taken from the personal representatives if they can make a statement in terms of s. 36 (6) of A. of E. Act, 1925, that no conveyance or assent in respect of the legal estate has been made. The purchaser cannot, however, be compelled to accept title from the personal representatives in lieu of the tenant for life : *Re Bryant and Barninghams' Contract*, 1890, 44 Ch. D. 218.

Trustee Act, 1925—Appointment of New Trustee.

Q. 1518. In 1922, A, who was going to reside permanently abroad, conveyed a dwelling-house to B upon trust to sell and to hold the proceeds (and income pending sale) upon trust for A. The conveyance contained the following clause : "The owner (A) during his life shall have power to appoint a new trustee or new trustees of these presents." A is still abroad, and it is now proposed to sell the property. The question arises whether the appointment of an additional trustee, necessary to give a valid receipt for the purchase money, can be made by B (the existing sole trustee) or whether such appointment comes within s. 36 (6) (*a*) of the T.A., 1925, and must be made by A. Will you please advise ?

A. The trust is on the title, so B cannot dispose of the premises under the amendment to the L.P.A., 1925, 1st Sched., Pt. II, para. 3, contained in the L.P. (Am.) A., 1926, Sched. A new trustee must therefore be appointed to give receipt, and A is clearly nominated in the conveyance as the person to appoint. The case therefore falls within the T.A., 1925, s. 36 (6) (*a*) as in the second alternative to the question suggested.

Partnership—Pre-1926 Conveyance to Partners as Joint Tenants in Trust for themselves as part of Partnership Estate—Death of One after 1925.

Q. 1519. In 1921 freehold property was for valuable consideration conveyed unto and to the use of seven purchasers, their heirs, executors, administrators and assigns, as joint tenants, in trust for them the purchasers, their executors,

administrators and assigns as part of their co-partnership estate. There was a declaration added that the trustees or trustee for the time being should have full power without the concurrence of any beneficiary to sell, mortgage, etc., and give effectual receipts. And further, that it should be lawful for the purchasers or after any one or more of them should have ceased to be a partner or partners, for the surviving or continuing partner to appoint a new trustee or new trustees in place of any trustee who should not at the time of such appointment be a member of the said firm as if he were dead. One of the partners (who was one of the first four named in the conveyance) is now dead, and the six survivors have agreed to sell the property. In whom is the legal estate now vested and what is the correct mode of conveyance to a purchaser ?

A. It is considered that the form of conveyance in this case precludes the inference that there was a merger of the legal and equitable interests as in *Re Selons*, 1901, 1 Ch. 921, discussed in "Every-day Points of Practice," Case 6, p. 86, and Case 8, p. 88, and that on 1st January, 1926, the case came within L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (1), where there is no limit to the number of trustees. The six survivors can therefore convey as trustees for sale. Of course, no new trustees can be appointed until the number of the original trustees is reduced below four (Trustee Act, 1925, s. 34).

Mortgage—Sale—Mortgagor Dead and without Representation.

Q. 1520. A mortgaged a small house in 1899 to B to secure £50 and interest at 4 per cent. B died in 1920 and interest was subsequently paid to the administrator. A died in 1923 intestate and no administration was taken to his estate. The widow, however, continued in possession of the house until November, 1925, and paid the interest up to that date. In November, 1925, the widow left the property and handed the key to the mortgagee who since then has received the rent and paid rates and executed certain repairs on the property. The net rent received after paying all outgoings is a trifle more than sufficient to cover the interest. The mortgagee has now had an offer to buy the property, but A's representative declines to take out letters of administration to the estate. Will you please advise if the mortgagee can sell and if so how a title to the property can be made ?

A. From the information supplied it appears that the statutory power of sale has not arisen. Notice to pay off could be served under s. 103 (1) of L.P.A., 1925, though the mortgagor is not ascertained (L.P.A., 1925, s. 196), and on default a sale effected. We suggest that any surplus proceeds of sale be paid on deposit, pending a claim. Alternatively, if a sale were immediately effected the purchaser would get a good title (L.P.A., 1925, s. 104 (2)). To protect the mortgagee against any claims in respect of the irregular sale an undertaking (supported by some technical consideration) should be obtained, from the person entitled to a grant of administration of the estate of A, to make no such claim and not to renounce his right. The parties prejudicially interested should concur and the undertaking would be much improved if (say) not only the person now entitled to the grant gave it, but also the person who would be entitled joining him. In this case also any surplus should be deposited.

Sale of Land and Buildings—Right of Light by Agreement—Non-disclosure—Effect.

Q. 1521. At a recent sale by auction a client of mine purchased certain property, and then signed the contract, which included the following clauses: "8. (i) The property is believed to be and shall be taken as correctly described, and any incorrect statement, error or omission found in the particulars, sale plan, if any, or conditions shall not annul the sale, or entitle any purchaser to be discharged from his purchase, nor shall the vendor or any purchaser claim or be allowed any compensation in respect thereof. (ii) This condition shall take effect in substitution for Clause 35 of the General Conditions of 1925." On forwarding requisitions on title to the vendors' solicitors it appeared the property was subject to an annual payment of 5s. in respect of a right of light, which payment had not been disclosed on the sale, the vendors' solicitors not being aware thereof at the time. In these circumstances, having regard to the clause in the contract: (1) Is my client entitled to claim compensation ? (2) Can the contract be specifically enforced against him, seeing that he is not obtaining that which he purchased ?

A. "On the sale of buildings there is no implied warranty that the windows enjoy a right of light over adjoining land belonging to a third person, and there is, therefore, no need for the vendor to disclose a written agreement . . . under which he enjoys the flow of light only on sufferance. Such an agreement is not an incumbrance."—(Gibson's "Conveyancing," 12th ed., p. 112). (1) No. (2) Yes.

Correspondence.

The Right to Refuse to Trade.

Sir,—Perhaps you will kindly allow me a surrejoinder to Mr. Peake. My submission is that *Timothy* v. *Simpson*, whether cited by Addison or any authority, is a case on trespass, and the judge's *dictum* as to contract, however worthy of respect, is not binding. On the law as then administered, and soon after laid down in *Wood* v. *Leadbitter*, 1845, 13 M. & W. 838, the customer could be turned out at any moment, whether he had made a contract or otherwise. My submission on *Hurst* v. *Picture Theatres* is that a tradesman cannot now turn a customer out who has contracted to buy goods over the counter, until the transaction is complete.

The other authorities cited by Mr. Peake are of course easily distinguishable. In the normal purchase of land the price is the subject of one only of several clauses in a contract, and in *Harvey* v. *Lacey* it was not clear that the vendor had tied himself to the disadvantageous open contract. And again, neither can advertisement in a catalogue, nor an exhibition in a shop-window, be a warranty that a tradesman will sell an unlimited quantity of a particular article, a fairly obvious proposition for which *Grainger & Son* v. *Gough* is authority.

I may add, on the case put, I think the tradesman might have a successful defence to his would-be customer's action for the seal-skin, but it would be on lines other than those put forward by Mr. Peake. A.F.

Judge's Complaint of Bad English.

Sir,—If Mr. Justice Horridge is accurately reported in your current issue (p. 858), he was, in correcting someone else's bad English, guilty himself of what Fowler ("Modern English Usage," p. 129) stigmatises as the "very common grammatical error" of using a plural verb with "*either* of them." Either of two persons could only be one person. If there were more than two persons concerned, the use of "either" is loose; the phrase should be "any one of them."

There does not seem much in the other point. To "cook" can be used, as meaning to falsify, quite as correctly of books as of figures. It is merely a little inelegant in either case.

London, W.1. B.
24th December.

Sir,—If the quotation given on p. 858 of Mr. Justice Horridge's comment is correct, surely his Lordship's English is not irreproachable.

"They are not, nor *are* either of them liable," is not good English, as taught in my young days.

Norwich. Parol.
22nd December.

Settled Land Grants.

Sir,—Referring to the letters from Mr. Barnes and Mr. Watson in your issue of the 8th inst., it would be a great advantage if The Law Society would take up the matter of form of grant with the Principal Registry.

There is no difference at present between the form of a general grant of administration issued in a case where there had been settled land vested in the deceased, but which had ceased to be settled land on his or her death (*Re Bridgett and Hayes*), and a case where there was *no* settled land vested in the deceased.

If the Inland Revenue Affidavit Form A-7, or a copy of it, were annexed to the general grant in the former case it would, of course, be apparent that the general grant had been issued after the affidavit as to settled land had been sworn.

There is nothing (in the form of it) at present to connect a grant of administration issued in such cases with the particulars in the Affidavit A-7.

Surely such grant should show on the face of it some reference to what was formerly settled land. Otherwise it seems one is still put on inquiry, and production of the Inland Revenue Affidavit should be called for where a sale of the former settled land is made by the general personal representative of the tenant for life.

Builth Wells. SYDNEY G. THOMAS.
24th December.

Complimentary Dinner to His Honour Judge Scully.

Sir,—The complimentary dinner to His Honour James A. Scully on the occasion of his retirement from the Bench, originally fixed for the 29th November, 1928, will be held at the Hotel Cecil, on Thursday, 17th January, 1929. The chair will be taken by Sir Harold Morris, K.C. Applications for tickets enclosing a remittance (£1 11s. 6d. including wines, etc.), should be made as soon as possible to Mr. J. D. Casswell at the address below.

T. M. V. VAUGHAN RODERICK
J. D. CASSWELL } *Joint Organisers.*

2 Mitre Court Buildings,
Temple, E.C.4.
23rd December.

Principal Vesting Deed—Costs—*Q.* 1475.

Sir,—I am much obliged to your correspondent for the quotation from the judgment of Mr. Justice Stirling which appeared in your issue of the 15th inst. It certainly confirms the opinion already given, although such a document as a vesting deed could not then have been in contemplation and is executed rather as a preface to, than in the course of, the exercise of the statutory powers (S.L.A., 1925, s. 13). I do not think, however, that I can subscribe to so wide a proposition as the suggestion he makes that the tenant for life is *always* entitled to be separately represented at the expense of capital. YOUR CONTRIBUTOR.

Reviews.

Wireless. The Modern Magic Carpet. RALPH STRANGER. With 250 illustrations and diagrams. Crown 8vo. 310 pp. (with Index). 1928. London: Partridge & Co. Ltd. Cloth. 3s. 6d. net.

In this book wireless is seriously treated though simply explained, and it should therefore prove invaluable to the uninitiated and at the same time useful to the expert. The reader will find experimental data presented in such a form as to enable the novice to grasp the technicalities easily and quickly. We therefore commend a study of such a work to all who are in any way interested in this fascinating subject. H.

Notes of Cases.

House of Lords.

Nash *v.* **Lynde.** 12th November.

COMPANY—PROSPECTUS—SHARES WHETHER ISSUED TO PUBLIC—STATEMENT IN PROSPECTUS—COMPANIES (CONSOLIDATION) ACT, 1908, s. 81.

This was an appeal from a decision of the Court of Appeal reported 1928, 2 K.B. 73, reversing a decision of Salter, J. The defendant was the managing director of a private company which was registered in 1920 with a nominal capital of £50,000 in £1 shares, of which £40,300 had been issued, and by its articles it was prohibited from issuing any invitation to the public to subscribe for shares. In 1921 the defendant prepared a scheme for increasing the capital of the company and issuing £20,000 preference shares of £1 each at par, and for every two preference shares allotted the applicant would have the option of taking one ordinary share of £1 at par. About the same time the defendant sent to a co-director a document marked "strictly private and confidential," in which the defendant described the purposes for which the additional capital was required, but without stating that any part of the capital had been issued as fully paid, and an application form for shares was attached. Copies of this document were sent to the co-director E, who sent a copy to A, a Liverpool solicitor, with a view to his finding a client to take shares. A sent the papers to the plaintiff's brother-in-law, who in turn sent them to the plaintiff, and the plaintiff, after an interview with the defendant subscribed for 3,000 ordinary shares. The shares subsequently depreciated in value and the plaintiff, having ascertained that 30,000 of the shares which had been issued by the company in October, 1920, had been issued to the vendors as fully paid otherwise than for cash, which fact was not stated in the documents sent to him, claimed damages for non-compliance with the requirements of s. 81 of the Companies (Consolidation) Act, 1908. The jury found that there was no proof that the documents were in fact issued to the public. The Court of Appeal by a majority reversed that judgment.

The HOUSE (Lord Hailsham, Viscount Sumner, Lord Buckmaster, Lord Carson and Lord Warrington) held that the plaintiff had failed to show that the documents were ever issued as a prospectus at all, and therefore that s. 81 had no application to the case. The decision of the Court of Appeal was therefore reversed and the judgment of Salter, J., restored.

COUNSEL: *Topham*, K.C., and *M. Healy*; *du Parcq*, K.C., and *W. T. Monckton*.

SOLICITORS: *Godden, Holme & Ward*; *Lake & Son.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

Rex *v.* **Southampton (County) Confirming Committee; *ex parte* Slade.**

Scrutton, Lawrence and Sankey, L.JJ. 9th November.

LICENSING—OLD BEERHOUSE LICENCE—REMOVAL—GRANT BY LICENSING JUSTICES—REFUSAL BY CONFIRMING AUTHORITY—LOSS OF MONOPOLY VALUE THE SOLE GROUND OF REFUSAL—SUFFICIENCY—DISCRETION OF CONFIRMING AUTHORITY—LICENSING (CONSOLIDATION) ACT, 1910, 10 Edw. 7, and 1 Geo. 5, c. 24, s. 26.

Appeal from an order of the Divisional Court (1928, W.N. 268; 44 T.L.R. 804), discharging rules *nisi* for mandamus and *certiorari*. The applicant, William Slade, was the holder of an old beerhouse on licence in respect of the "Bird-in-Hand" public-house, Fareham. It was desired by the owners to remove to a new site, and the applicant applied for an order of removal of the licence under s. 26 of the Licensing (Consolidation) Act, 1910. The application was strongly supported by the police as being in the interests of the neighbourhood, and

was unanimously granted by a bench of twelve licensing justices. The confirming committee, to whom quarter sessions had delegated their duties as confirming authority, refused to confirm the justices' order, although the application was unopposed. They stated that they refused to confirm the justices' order of removal on the sole ground that the monopoly value of the new premises, which would be substantial, would be lost to the public if the matter was dealt with as one of removal and not of a new licence. The applicant having obtained rules for mandamus and *certiorari*, the Divisional Court held that s. 26 of the Act of 1910 did not limit the matters which the confirming authority might take into account in deciding whether to confirm the justices' order of removal of the licence. The rules were discharged. The applicant appealed.

The Court (SCRUTTON, LAWRENCE and SANKEY, L.JJ.) dismissed the appeal. Section 26 of the Licensing (Consolidation) Act, 1910, gave the confirming authority an absolute discretion in the matter, and it could not be said that the confirming committee had acted unreasonably, or contrary to justice, or contrary to law in directing their minds to the loss to the public of the monopoly value of new premises if the matter was dealt with as a removal and not as a new licence. The Divisional Court was right in discharging the rules. Appeal dismissed.

COUNSEL: *Sir R. Mitchell Banks*, K.C., and *Maurice Healy*; *Holman Gregory*, K.C., and *Blake Odgers*.

SOLICITORS: *Godden, Holme & Ward*, for *Hobbs & Brutton*, Portsmouth; *Robbins, Olivey & Lake*, for *F. V. Barber*, Winchester.

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

Sherwood *v.* Sherwood.

Lord Hanworth, M.R., Greer and Russell, L.JJ. 9th November.

DIVORCE—PERMANENT MAINTENANCE—PROPORTION OF HUSBAND'S INCOME—CALCULATION NOT LIMITED TO INCOME OF PRECEDING YEAR—DEDUCTION OF TAXES.

Appeal from a decision of Duke, P.

After *decree nisi*, a wife petitioned for permanent maintenance. Her husband had at one time made a large professional income, which had tended to decrease, but which was found by the registrar to be £7,500 gross for 1927. From that figure over £5,000 had to be deducted for payment of income and super tax, owing to the large earnings in previous years, in addition to £100 for an insurance premium. The registrar therefore, found that the net income was about £1,900, and he allowed the wife £600 a year. Upon appeal by the wife, Duke P., thought that the abnormally heavy income tax payable in 1927, rendered the net income for that year an illusive test. He estimated the husband's income as being probably about £5,000 a year, and increased the maintenance to £1,600. The husband appealed, contending that *Dayrell Steyning* v. *Dayrell-Steyning*, 1922, P. 280, had established the rule that one-third of the husband's income for the year immediately preceding was the proper amount to allow.

Lord HANWORTH, M.R., said that the president, in exercising a very wide discretion, was justified in estimating the husband's income from the optimistic as well as from the pessimistic standpoint. It was quite wrong to contend that the court must focus its attention on the last year only, and the case of *Dayrell-Steyning* v. *Dayrell-Steyning*, *supra*, had not laid that down as a rule of law. The last year's income had been taken in that case, but there was nothing to show that the income during that last year had been an exceptional one, or that that particular year was not a fairly representative test of the income as a whole.

COUNSEL: *Cotes Preedy*, K.C., and *Bush James*, for the appellant; *Noel Middleton*, for respondent.

SOLICITORS: *Croft & Russell*; *Lewis & Lewis*.

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

W. Seabrook and Sons, Ltd. *v.* Jones.

Lord Hewart, C.J., Avory and Acton, JJ. 20th November.

AGRICULTURAL WAGES—MINIMUM RATES—APPLICABLE TO NOMINAL WEEK OF LESS THAN FIFTY HOURS—AGRICULTURAL WAGES (REGULATION) ACT, 1924 (14 & 15 Geo. 5, c. 37), s. 7 (1)—AGRICULTURAL WAGES BOARD ORDER, No. 256.

Appeal by way of case stated by the Chelmsford justices.

The respondent, an officer appointed under the Agricultural Wages (Regulation) Act, 1924, preferred an information on the 4th May, 1928, against the appellants, alleging that they, being employers of workers in agriculture in a case to which minimum rates of wages were applicable, unlawfully failed to pay wages to one, Twin, at not less than the minimum rate, contrary to the Act, and the Ord. 256, made thereunder. Twin, who was over twenty-one years of age, was normally paid 30s., less 9d. insurance, for a 50-hour week, but during the week in which Good Friday fell, in 1928, he was only required to work forty-one hours, and including a half-day's pay, given as bonus, he was only paid £1 6s. 8d. The respondent contended before the justices that as the appellants had only paid Twin £1 6s. 8d., they should be ordered to pay the balance of 2s. 7d. The justices were of opinion that Ord. 256 applied, and that Twin was entitled to the full minimum wage of 30s. for Good Friday week, and they convicted the appellants, fined them 10s., and ordered them to pay the balance of 2s. 7d. They now appealed.

Lord HEWART, C.J., said that the key to the whole question was to be found in the definition section of the Act. Under the Act "employment" meant "employment under a contract of service or apprenticeship," not actual working at every moment. The representative bodies who fixed the minimum rates were not confined to fixing rates per hour to the exclusion of rates per week. By clause 2 of Ord. 256, it was expressly provided that the worker should have the same wages as if he had worked fifty hours when a nominal week included less than fifty hours. The justices were right and the appeal was dismissed.

AVORY, J., delivered judgment to the same effect; ACTON, J., agreed.

COUNSEL: *Comyns Carr*, K.C., and *A. Trustram Eve*, for the appellants; *The Attorney-General* (*Sir Thomas Inskip*, K.C.) and *Hubert Hull*, for the respondent.

SOLICITORS: *Ellis & Fairbairn*; *Solicitor to the Minister of Agriculture and Fisheries*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Barrow, Lane and Ballard, Ltd. *v.* Phillip Phillips & Co. Ltd.

Wright, J. 5th December.

SALE OF GOODS—SALE BY NUMBER—THEFT OF PART BY THIRD PARTY BEFORE CONTRACT—INNOCENT VENDOR AND VENDEE—VENDEE NOT BOUND BY SALE—SALE OF GOODS ACT, 1893, 56 & 57 Vict. c. 71, s. 6.

The plaintiffs, in October, 1927, bought 700 bags of Chinese groundnuts, ex-store, lying at the National Wharves, London. Without removing the nuts the plaintiffs re-sold them to the defendants on the 11th October, 1927, and gave them a delivery note on the next day. The defendants eventually took delivery on the 6th December. It subsequently appeared that at the time of the re-sale to the defendants, and without the knowledge of either party, 109 of the bags had been stolen by someone, and the question was whether the plaintiffs or the defendants must bear the loss. The defendants, by way of payment, had accepted two bills of exchange drawn in favour of the plaintiffs, and the plaintiffs now claimed for the payment of those bills.

WRIGHT, J., said that nothing could be recovered from the wharf owners, who had gone into liquidation, and had passed

the assets to the debenture-holders. In his judgment, the intention at the time of the sale was to pass the property in an indivisible parcel of 700 bags. If the whole 700 bags had perished without the knowledge of either party before the date of the contract there would have been a complete frustration of the intention of the parties, and s. 6 of the Sale of Goods Act would have applied. In the present case, however—and the problem appeared never to have arisen before—the question was what was the position where some of the specific goods under a contract of sale had already ceased to exist unknown to the parties. In his opinion, the position in law was the same as if the whole 700 bags had ceased to exist before the contract was made. In this case to compel the buyer to take 591 bags would be to compel him to take what he had never contracted to take, and would be unjust. He referred to the tenth edition of "Chalmers on the Sale of Goods," p. 31; and "Benjamin on Sale," at p. 162. In his view the contract was void, and there must be judgment for the defendants.

COUNSEL: *Rayner Goddard*, K.C., *and A. E. Woodgate*, for the plaintiffs; *Le Quesne*, K.C., *and D. B. Somervell*, for the defendants.

SOLICITORS: *Burnie & Coleman; Keene, Marsland, Bryden & Besant.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Societies.

The Law Society.

HONOURS EXAMINATION.

NOVEMBER, 1928.

At the Examination for Honours of Candidates for Admission on the Roll of Solicitors of the Supreme Court, the Examination Committee recommended the following as being entitled to Honorary Distinction:—

FIRST CLASS.

(In Order of Merit.)

(1) John Kenneth Dickin Roberts (Mr. John Eustace Jones, of the firm of Messrs. Walker, Smith & Way, of Chester). (2) Norman Henry Wight (Mr. Henry North Lewis, of the firm of Messrs. Middleton, Lewis & Clarke, of London), (3) Edward George Trant, LL.B. London (Mr. Gilbert Babbage, of the firm of Messrs. Gilbert Babbage & Co., of Exeter).

SECOND CLASS.

(In alphabetical order.)

James Henry Armistead, B.A. Oxon., formerly a barrister-at-law, Edith Margery Barker, LL.B. Leeds (Mr. James Moxon, of the firm of Messrs. Moxon & Barker, of Pontefract), Marion Graeme Billson, B.A., LL.B. Cantab. (Miss Edith Annie Jones Berthen, of the firms of Messrs. Berthen & Munro, of London; and Messrs. Herbert J. Davis, Berthen & Munro, of Liverpool), William Dennis Boyt (Mr. Arthur Charles Dowding, of the firm of Messrs. Venn & Woodcock, of London), George Castle, LL.B. Manchester (Mr. William Castle, of the firm of Messrs. Knott & Castle, of Manchester), Herman Joseph Bond Cockshutt (Mr. Joseph Cockshutt, of the firm of Messrs. Slaughter, Colegrave & Cockshutt, of London), Alfred Allan Collins, LL.B. Leeds (Mr. Frank Morley Farmer, M.B.E. (Mil.), LL.B., of Pontefract; and Mr. Francis Edward Foster Barham, of the firm of Messrs. Sharpe, Pritchard & Co., of London), Alec Vernon Cunliffe (Mr. Bernard Compton Carr, of the firm of Messrs. Brown, Turner, Compton Carr & Co., of London and Southport), William Geoffrey Llywelyn Davies, B.A. Oxon. (Mr. Marten Llewellyn Evans, M.A., of the firm of Messrs. Turner & Evans, of London), Joseph Eric Davis, LL.B. Victoria (Mr. Richard Henry Leech, of the firm of Messrs. Marsh, Son & Calvert, of Leigh, Lancashire), Louis Gabe, LL.B. London (Mr. Edward Christopher Stacey, of the firm of Messrs. Routh, Stacey & Castle, of London), John Charles Gittins (Mr. Cyril Oswald Jones, B.A., of the firm of Messrs. Cyril Jones & Williams, of Wrexham), Joseph Latin, LL.B. Liverpool (Mr. Alfred Lamb, of the firm of Messrs. Matthew Jones & Lamb, of Liverpool), George Arnold Linsley, LL.B. Leeds (Mr. James Lomas Walker (deceased); and Mr. James Wilkinson, both of the firm of Messrs. Raworth, Lomas Walker, Butterworth & Wilkinson, of Harrogate; and Mr. Thomas Davies Jones, of the firm of Messrs. T. D. Jones & Co., of London), John Noel Howard Pursaill (Mr. Arthur Malcolm Troup, of the firm of Messrs. Phipps & Troup, of Northampton), Brian Charles Pye-Smith, B.A. Oxon. (Mr. Edward Wilfrid Pye-Smith, of Sheffield), Edward Leslie Robson (Mr. Neville Miles Bolsover, of Stockton-on-Tees), Arthur Harry Simpson, LL.B. London (Mr. Leonard Nevill, of the firm of Messrs. Sewell, Edwards & Nevill, of London), Ernest Gordon Borrett Taylor (Mr. Edward Mackie, of London).

THIRD CLASS.

(In alphabetical order.)

Leonard John Aylett (Mr. Reginald Henry Barrett, of the firm of Messrs. Sharman & Trethewy, of Bedford), John D'Arblay Burney (Mr. Arthur Peel Williamson, of East Retford), Joseph Ledger John Burton, LL.M. Sheffield (Mr. William Henry Burton, of Wakefield), Irving Ray Clark (Mr. Robert Halsall, LL.B., of the firm of Messrs. W. & R. Hodge & Halsall, of Southport), Samuel Cohen, B.A. Wales, LL.B. London (Mr. Thomas Morgan Jones, of Cardiff), Ellis Roger Davies (Mr. Howell Lang Lang-Coath, of Swansea), David Norman Hall (Mr. John Norman Bailey, of the firm of Messrs. Gibson & Weldon, of London), Harold Hall (Mr. Joe Baldwin Cooke, of the firm of Messrs. J. B. Cooke & Son, of Wakefield), David Luke Vernon Hanson (Mr. Harold Percy Mason, LL.M. (deceased), and Mr. Neville Roper-Stone, B.A., both of the firm of Messrs. Stone, Simpson & Mason, of Tunbridge Wells), William Hayward Haward, B.A. Oxon. (Mr. Arnold John Haward, of Felixstowe), Clifford Heyworth (Mr. John Alderley Baxter, of the firm of Messrs. Knowles and Thompson, of Waterfoot), Ronald Laughton Jones (Mr. Leonard Arthur Wallen, of the firm of Messrs. L. A. Wallen and Jenkins, of Blaina), David Kemsley, B.A. Oxon (Mr. Arthur Statham Jecks, LL.B., of the firm of Messrs. Johnson, Jecks & Colclough, of London), Henry Reginald McDowell, LL.B. London (Mr. Charles Hubert Plackett, of the firm of Messrs. Harland, Plackett & Freeman, of Leeds), Isaac Louis Maltz (Mr. Abraham Woolf, B.A., of the firm of Messrs. A. W. Woolf & Co., of London), George Haynes Murray, B.A. Oxon. (Mr. Frank Augustus Padmore, of the firm of Messrs. Tatham, Worthington & Co., of Manchester), John Harold Payne (Mr. Frederick Charles Payne, of the firms of Messrs. Payne & Payne, of Hull; and Messrs. Nutsey and Payne, of Shrewsbury), Beauchamp Stuart Pell, B.A. Cantab. (Mr. William Stanley Hitchins, of the firm of Messrs. Capron & Co., of London), Kenneth Herbert Ritchie (Mr. Henry Josiah Humm, of the firm of Messrs. Maddison, Stirling, Humm & Willett, of London), William Clifford Scott (Mr. Charles Lucas Townsend, of the firm of Messrs. Archer, Parkin & Townsend, of Stockton-on-Tees; and Messrs. Gibson and Weldon, of London), Harold Arthur Sharman (Mr. Arthur Frank Sharman, of the firm of Messrs. King & Sharman, of March; and Messrs. Rider, Heaton & Co., of London), Reuben Smith (Mr. Samuel Phillips, M.A., of Newcastle-upon-Tyne), Richard Knightley Smith (Mr. Reginald Frankland White, of the firm of Messrs. Buchannan & White, of Whitby), Edward Steel (Mr. Thomas Samuel Steel, of Warrington), Hugh Simonds Storrs (Mr. William Argent Pilgrim, of the firm of Messrs. Pilgrim, Hayman & Badgery, of Colne; and Mr. Edward Arthur Last Smith, of the firm of Messrs. Ridsdale and Co., of London), John Ellis Talbot (Mr. Ellis William Talbot, of the firm of Messrs. Talbot & Painter, of Kidderminster), William Hunter Willan (Mr. William Thomas Metcalfe of the firm of Messrs. Willan & Metcalfe, of Howes; and Mr. Simon Hunter Willan, of Pontefract), John Pearce Wilson (Mr. Percy Bartlett Hughes and Mr. Joseph Roberts, both of the firm of Messrs. Percy Hughes & Roberts, of Birkenhead).

The Council of The Law Society have accordingly given a Class Certificate and awarded the following prizes:—

To Mr. Roberts: The Clement's Inn Prize—Value about £42.

To Mr. Wight: The Daniel Reardon Prize—Value about £21.

To Mr. Trant: The Clifford's Inn Prize—Value £5 5s.

The Council have given Class Certificates to the Candidates in the Second and Third Classes.

One hundred and twenty-one candidates gave notice for examination.

Law Association.

The usual monthly meeting of the directors was held at The Law Society's Hall, on the 6th inst., Mr. W. Winterbotham in the chair. The other directors present were: Mr. J. D. Arthur, Mr. P. E. Marshall, Mr. J. R. H. Molony, Mr. W. M. Woodhouse, and the Secretary, Mr. E. E. Barron. A sum of £155 was voted in relief of deserving cases, and a further sum of £200 was voted for special Christmas gifts to all the old people assisted during the year. Three new members were elected and other general business was transacted.

Incorporated Law Society of Plymouth.

The 113th annual general meeting of this Society was held at the Law Chambers, Plymouth, on Wednesday, the 28th November last, when the retiring president (Mr. Albert Gard) occupied the chair, and we have pleasure in printing the following extracts from the annual report :—

Perpetually Renewable Leaseholds.—Your committee have been in frequent communication with the solicitors to the Lords of the local Manors and have finally agreed with them the form of the Memorandum to be endorsed on perpetually renewable leases under the provisions of the Law of Property Acts, and also the formulæ for calculating the amount of the increased rents payable. The question of the necessity of registering with the stewards of the Lords of the Manors mortgages and reconveyances of perpetually renewable leaseholds is still under discussion.

Poor Persons Committee.—During the past year there have been five meetings of the committee of poor persons, and the average attendance has been five out of a total membership of nine. Thirty-nine cases of applications for legal assistance have been received. Of these, three were for proceedings in the High Court other than divorce, and the remaining thirty-six were applications for divorce. Nineteen were granted, seven were refused, two were referred to other committees, two withdrawn and nine are standing over. Of the applications twenty-seven were made by males and twelve by females. Proceedings ought to be forthwith commenced in a large number of cases which are at present, unfortunately, in abeyance owing to the inability of the poor persons committee to find members who are willing to undertake them. Your committee regret that so many members have hitherto shown a marked reluctance to undertake this work, but trust that, having regard to its importance, they will see their way clear to do so during the coming year and will advise the secretary of the committee (Mr. E. S. Dobell) to that effect.

School of Law.—During the past year twelve students pursued courses for the Intermediate Examination of The Law Society, seven for the Final Examination, and five for the Inter. LL.B. (Lond.). Two of those reading for the Final were also preparing for the Final LL.B. (Lond.), whilst of the five reading for the Inter. LL.B. two were among the twelve reading for the Intermediate, thus giving a total of twenty-two students at Plymouth. Nine students of the School of Law (Plymouth centre) passed the Intermediate Examination of The Law Society, and three the Inter. LL.B. (Lond.). There were no candidates for the Final Examination. As a result of the forthcoming appointment of an additional tutor it is intended to give more lectures each week and to furnish the students with comprehensive study notes on the whole of their syllabus.

During the year there have been two meetings of the Associated Provincial Law Societies and one of a sub-committee at all of which your Society was represented. The Committee was also represented by your President at the Annual Meeting of The Law Society at Eastbourne.

Your Committee were pleased to be identified with the members of the profession and others in the presentation made to Mr. Gooding Field, late High Bailiff of the local county court, on his retirement.

During the past year a golf match was played at Tavistock between members of your Society and members of the Plymouth Medical Society for a cup presented by Mr. C. Bertram Soltau, which resulted in a victory for the Medical Society.

The Annual Dinner of your Society was held at the Duke of Cornwall Hotel on the 6th January, 1928, when the Recorder of Plymouth, Mr. J. A. Hawke, K.C., M.P. (now Mr. Justice Hawke), honoured the occasion with his presence as your Society's guest.

During the past year Mr. O. Wilcocks and Mr. W. L. Munday each kindly presented an oak chair to your Society to commemorate their respective years of office as president.

Mr. F. E. Bowden was unanimously elected President for the ensuing year, and in his presidential address said :—

Since our last Annual Meeting Plymouth has been raised to the dignity of a city. I have no doubt that we all feel an added dignity at being citizens instead of burgesses. Many of us, however, will probably be of opinion that Plymouth in addition to being a city, should also be an assize town. The inconvenience of journeying with clients and witnesses to Exeter or Bodmin is well known to those practitioners who are concerned with litigation. Plymouth is the centre of a large district. I do not know whether it is possible to urge the authorities to place Plymouth on the Circuit of Judges, or whether the difficulties are insurmountable. This is a matter which I think your committee should watch.

There are many matters about which your President might conveniently address you. Changes are always taking place which affect us as solicitors, and these might be considered from time to time.

Some of you may think that the law never changes. A President of another Law Society, addressing members some time ago, referred to the fact that there is in the British Museum a deed 3,000 years old, conveying a house and land in Babylon. It is most beautifully engrossed in cuneiform characters on separate sides of a small baked clay tablet, the engrossing having been done with the aid of a powerful lens. It contains practically all the clauses of a present conveyance. On the reverse side of the tablet is a plan of which any surveyor might be proud.

Kipling wrote :—

" I tell this tale, which is strictly true,
Just by way of convincing you,
How very little since things were made,
They have altered things in the lawyers' trade."

Kipling may have been right at the time he wrote those lines, but in recent years many changes have taken place. There are, for example, the changes brought about by recent conveyancing legislation—which I trust we are all assimilating by degrees. These changes are of a revolutionary character, the full effect of which we are only beginning to appreciate. Some of us are still a little bit doubtful in our minds as to whether the objects for which this legislation was introduced—namely, cheapness and simplification—are being achieved.

Some of the changes which are taking place do not tend to make our profession any easier, and it is becoming, in my opinion, more difficult as years go on. The conscientious practitioner who wants to do his duty to his client has an exceedingly hard task. To keep himself up to date he has not only to have a good general knowledge of the law, but also to make himself familiar with the ever-increasing Acts of Parliament which are passed each year. Take some of this year's legislation. We have, *inter alia*, (1) Landlord and tenant, (2) Rating and valuation, (3) Local government. In addition the practitioner has to have some knowledge of the decisions which are being daily added to our case law. Many of us realise that we do not do so much as we might in keeping ourselves thoroughly up to date in legal subjects. It is not always easy for us to be conscious of our own defects. That reminds me that on one occasion at the opening of the Law Courts the judges were engaged in drawing up an address to the Queen. A paragraph began " Conscious as we are of our own shortcomings," when the late Lord Bowen at once said : " Oh, no, that won't do, it should be ' Conscious as we are of one another's shortcomings.' "

With all its difficulties I think we have every reason to be proud of our profession. We may be at times ashamed when the case is reported of some back-sliding solicitor. The Press never fails to have big headlines nor to give full details of such a case. The lawyer is more often the villain of a play than the hero. I do not, however, think this correctly reflects public opinion of lawyers generally. The six and eightpenny joke is still popular with certain comedians, who generally however, neglect to add the important thirty-three and a third per cent. ! In my judgment our profession performs far more useful and honourable work than is generally supposed. Popularly it is thought that we encourage litigation, but most of us settle many more cases than we fight, although frequently we have difficulty in dissuading clients from litigating. The Master of the Rolls said recently that " Lawyers stop more litigants and prevent more litigation than any other body of persons in the whole country." This is perfectly true, but we do not often receive such compliments. I think that Lord Hanworth must be a good friend to solicitors, for just about the same time he remarked that " Doctors are said to belong to the most generous profession, but solicitors are almost on a level with them." I am inclined to go further and say that we do far more work for nothing than do the doctors. We have no Insurance Acts to help us, and without State help magnificent service is rendered by solicitors gratuitously. There is first of all the work done under the Poor Persons Rules. You all know what that involves and what assistance is given thereunder. I should like here to pay a tribute to the work done by our own Poor Persons Procedure Committee. Then, secondly, some of us, from time to time, assist in cases sent from the Council of Social Service. Thirdly, there are a number of cases common to all of us in the course of a year when we charge either nothing or something purely nominal. The profession does not receive the credit for all this that one might expect, the reason probably being that it is not generally known. In spite of this, however, we shall, I know, continue to do our part to assist poor persons. Probably a time will come when there will be panel clients in the same way as there are panel patients ! I saw recently that another Law Society had instituted a poor persons bureau where solicitors at stated times, according to a rota, were available for advising poor

persons. I wonder whether we, as a society, could do something like that in Plymouth.

We do much work gratuitously as I have said. There are other ways in which our training should be helpful. All of us should in some capacity or another render some outside service to the community. There are not enough solicitors in public life in the town, and public life is consequently the poorer. No man is more fitted for it than the solicitor. It is an amazing fact that there are only three solicitors on our City Council out of eighty representatives. I do not suppose there was ever a time in recent years when there were fewer solicitors on our local council, nor when the council needed more strengthening. I remember that years ago it used to be a taunt that there were too many solicitors there. I would rather have too many than too few. There are, of course, many other forms of public service in which the solicitor can take part, and I should like, in conclusion, to appeal to the younger members of our profession to consider this question very carefully. Time can be found for service to the community, either during office hours without detriment to our practices or after office hours without loss of leisure. We should, I think, realise that the costs column of our account books (which I trust we have audited properly once a year at least) does not constitute the end-all and be-all of our existence, and success is not solely measured by its total. "To travel hopefully is a better thing than to arrive, and the true success is to labour."

Mr. S. C. Davis was elected Vice-President for the ensuing year, and the annual dinner was fixed for Wednesday, 2nd January, 1929.

The meeting closed with a hearty vote of thanks to the retiring President (Mr. A. Gard) for his valuable services during the past year.

Law and City Courts Committee Luncheon.

On Wednesday, the 28th ult., Mr. Deputy and Under-Sheriff T. Howard Deighton (Chairman) presided at the luncheon of the Law and City Courts Committee at Armourers' Hall.

HETEROGENEOUS JURIES.

Lord RIDDELL proposed the toast of "The Legal Profession," and said that the work of the court was formulated in great measure by Lord Mansfield, who declared that the excellence of the justice administered was greatly forwarded by the juries composed of citizens of London. It was most unfortunate, added Lord Riddell, that nowadays commercial cases were decided by heterogeneous juries, often including women, who knew nothing of bills of lading, though they might know a good deal about bills of sale. (Laughter.) The traditions of the British legal profession were, indeed, great. He noticed in going about the world, that, although other institutions were criticised, British justice was always recognised as the best—even in America, which imagined it was better than any other country. That was due to the moral character of the people as reflected in the judges. (Laughter.) It was also due to our legal traditions, which were carried on from generation to generation. In addition to upholding their traditions, however, counsel and judges all over the country had maintained a high degree of practical legal learning.

Mr. Justice SWIFT in responding said that he regarded the City Courts Committee as a link between the legal profession and the great Corporation of the City of London.

Sir ERNEST WILD asked what mankind would do without the legal profession. If a man were possessed of all the virtues he might avoid contact with a lawyer; but because he was immoral and litigious he certainly could not.

The toast of the "Lord Mayor and Corporation of the City of London" was submitted by Lord Atkin, who said that commercial law was developed at the Guildhall by Lord Mansfield and his successors, aided by the Special City juries. The Lord Mayor briefly responded.

The presiding Chairman said that for a Chairman last year they had a layman, Mr. Charles Kershaw, who served as if "to the manner born." Acting on behalf of the committee, the Under-Sheriff presented Mr. Kershaw with a silver salver.

Mr. KERSHAW returned thanks and the health of the Chairman was heartily honoured in a toast proposed by the Lord Mayor.

High Court of Justice.

Christmas Vacation, 1928-1929.

NOTICE.

There will be no sitting in Court during the Christmas Vacation.

During the Christmas Vacation all applications "which may require to be immediately or promptly heard" are to be made to the Judge who for the time being shall act as Vacation Judge.

The Honourable Mr. Justice Charles will act as Vacation Judge from Saturday, 22nd December, 1928, to Thursday, 10th January, 1929, both days inclusive. His Lordship will sit in King's Bench Judges' Chambers on Friday, 28th December and Friday, 4th January, at half-past 10.

On days other than those when the Vacation Judge sits in Chambers, applications in urgent matters may be made to his Lordship by post, or, if necessary, personally.

When applications are made by post the brief of counsel should be sent to the Judge, by post or rail prepaid, accompanied by office copies of the affidavits in support of the application, and also by a minute, on a separate sheet of paper, signed by counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows: "Chancery Official Letter: To the Registrar in Vacation, Chancery Registrars' Chambers, Royal Court of Justice, London, W.C.2."

On applications for injunctions, in addition to the above, a copy of the writ and a certificate of writ issued must also be sent.

The papers sent to the Judge will be returned to the Registrar.

The address of the Vacation Judge can be obtained on application at the Chancery Registrars' Chambers, Room 136, Royal Courts of Justice.

Chancery Chambers (Master Keen) will be open for Vacation business from 10 to 2 on Thursday, 27th December; Friday, 28th December, 1928; Tuesday, 1st January; Wednesday, 2nd January; Thursday, 3rd January; and Friday 4th January, 1929.

CHANCERY REGISTRARS' CHAMBERS,
Royal Courts of Justice,
December, 1928.

Legal Notes and News.

Honours and Appointments.

NEW JUDGES IN MADRAS.

The India Office announces that the King has approved the addition of two Puisne Judges to the permanent strength of the High Court of Judicature at Madras, and to fill the two vacancies thus created by the appointment of Mr. HENRY D'ARCY CORNELIUS REILLY, I.C.S., and RAO BAHADUR CHITTOOR VAIDYALINGA AYYAR ANANTAKRISHNA AYYAR.

Mr. GEORGE H. BANWELL, Senior Assistant Solicitor to the Sheffield City Council, has been appointed Deputy Town Clerk of Norwich. Mr. Banwell was admitted in 1922.

His Majesty has also approved the appointment of Mr. KRISHNA PANDALAI as Puisne Judge of the Court in succession to The Hon. Muthiah David Devadoss, who is retiring, and the appointment of Mr. ALLADI KRISHNASWAMI AYYAR as Advocate-General, Madras, in succession to Rao Bahadur Chittoor Vaidyalinga Ayyar Anantakrishna Ayyar.

The appointment of Mr. NRIPENDRA NATH SIRCAR to be Advocate-General for the Presidency of Bengal, in succession to Sir BRAJENDRA LAL MITTER, who was recently appointed to be a Member of the Executive Council of the Governor-General of India, has also been approved by the King.

Mr. J. D. CASSELS, K.C., has been appointed Recorder of Brighton. Mr. Cassels was called by the Middle Temple in 1908, and took silk in 1923.

Mr. JOHN FLOWERS, Barrister-at-Law, has been appointed Recorder of Guildford, in succession to Mr. W. P. GRATWICKE BOXALL, K.C., who has resigned. Mr. Flowers was called by the Inner Temple in 1908.

Mr. PERCY B. SKEELS, Solicitor, Moorgate Station-chambers, Moorfields, E.C., has been appointed Assistant Deputy to the Coroner for the Eastern District of London. Mr. Skeels was admitted in 1905. Mr. Skeels is also a duly qualified medical practitioner.

The Lord Chancellor has nominated The Honourable Mr. Justice MACKINNON to be *ex officio* Commissioner for England under the Railway and Canal Traffic Act, 1888.

Mr. JOHN B. BLAGDEN, M.A., Barrister-at-Law, of the Inner Temple, Fellow of All Souls' College, Oxford, and formerly Eldon Law Scholar, has been appointed Assistant Reader in Evidence, Procedure (Civil and Criminal) and Criminal Law at the Inns of Court. Mr. Blagden was called to the Bar in 1925.

Mr. S. E. MAJOR, Solicitor, has been appointed Clerk to the Justices for the Petty Sessional Division of Lonsdale North (Lancs), in succession to his father, the late Mr. S. E. Major.

Mr. B. MORRIS, Solicitor, Llanelly and Burry Port, has been appointed Clerk to the Burry Port Urban District Council in succession to the late Mr. J. Lewis Phillips.

Mr. E. STANLEY HOLCROFT, Assistant Solicitor to the Oxfordshire County Council, has been appointed Deputy Clerk of the Peace and of the County Council of Essex. Mr. Holcroft was admitted in 1907.

Mr. EUSTACE G. HILLS, K.C., has been appointed a Director of the Equity and Law Life Assurance Society, 18, Lincoln's Inn Fields, W.C.2

Mr. RANDALL HERBERT MONIER-WILLIAMS, B.A., solicitor, of Messrs. Monier-Williams & Milroy, 41 Trinity-square, E.C.3, has been elected a director of the British Law Insurance Company Limited. Mr. Monier-Williams was admitted in 1920.

Mr. JOHN S. ANDERSON has been appointed Solicitor to the Metropolitan Railway Company as from 1st January next, in succession to Mr. I. B. Pritchard, M.A. (Cantab.), Solicitor, who assumes the duties of Chief Legal Adviser to the London and North Eastern Railway Company on that date. Mr. Anderson was admitted in 1911 and Mr. Pritchard in 1906.

The King has approved a recommendation of the Home Secretary that Sir H. H. CURTIS BENNETT, K.C., shall be appointed Recorder of Colchester in succession to Sir Malcolm Macnaghten, K.B.E., K.C., M.P., recently appointed one of His Majesty's Judges. Sir Henry was called to the Bar in 1902, practised largely in criminal cases and took silk in 1919, receiving the honour of knighthood in 1922.

Mr. NORMAN LESTER, Solicitor, Deputy Town Clerk of Barnsley, has been appointed Town Clerk of Wednesbury, and will take up the duties of his new appointment on the 14th January next. Mr. Norman, who was admitted in 1925, served his articles with Mr. E. B. Sharpley, Town Clerk of Stoke-on-Trent.

The following candidates for the Town Clerkship of Hull have been selected to appear before the Council for interview, viz.: Mr. J. G. GUNTER, Chief Assistant Solicitor and Deputy Town Clerk of Bradford; Mr. HENRY HOPKINS, Solicitor, Town Clerk of Darlington; Mr. J. R. HOWARD ROBERTS, Solicitor, Deputy Town Clerk of Liverpool; Mr. HAROLD W. STANTON, O.B.E., B.A., Solicitor, Town Clerk of West Hartlepool; and Mr. GRAHAM WILSON, Solicitor, the Acting Town Clerk.

Professional Partnerships Dissolved.

GILBERT COWIE, MALCOLM ALEXANDER MELDON DILLON and KEITH ALEXANDER BUCHANAN WILSON, solicitors and notaries, Liverpool (Wilson, Cowie & Dillon), by mutual consent as from 30th September, so far as regards K. A. B. Wilson, who retires from the firm.

Sir HAROLD GEORGE DOWNER, Sir LOUIS STANLEY JOHNSON and RICHARD WILLIAM ROBERT ALLEN, solicitors, 426, Salisbury House, London, E.C. (Downer and Johnson), as from 17th October, by mutual consent. Sir H. G. Downer will continue to practise at 111, Moorgate, E.C., in partnership with Cyril Frederick Lewis, under the style of Downer and Lewis. Sir L. S. Johnson and R. W. R. Allen will continue to practise at 426, Salisbury House, E.C., in partnership with Oswald Victor Baldwin under the style of Stanley Johnson and Allen.

Wills and Bequests.

Mr. Ralph Henry Charles Ritson, solicitor, of St. Paul's-square, Bedford, coroner for the Borough of Bedford, left estate of the gross value of £2,213.

Mr. Samuel, F. M. Stone, solicitor, Leicester, who died on 1st August, left estate of the gross value of £64,000 17s. 10d.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 10th January, 1929.

	Middle Price 24th Dec.	Interest Yield.			Yield with Redemption.		
		£	s.	d.	£	s.	d.
English Government Securities.							
Consols 4% 1957 or after	88½	4	11	0	—		
Consols 2½%	56	4	9	0	—		
War Loan 5% 1929-47	102½	4	18	0	4	17	6
War Loan 4½% 1925-45	98½	4	12	0	4	14	0
War Loan 4% (Tax free) 1929-42	100¾	4	0	0	3	19	6
Funding 4% Loan 1960-1990	90	4	9	0	4	11	0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	95	4	4	6	4	7	6
Conversion 4½% Loan 1940-44	99	4	11	0	4	13	0
Conversion 3½% Loan 1961	79⅛	4	8	0	—		
Local Loans 3% Stock 1921 or after	65¼	4	12	0	—		
Bank Stock	260	4	11	6	—		
India 4½% 1950-55	92½	4	17	0	4	19	6
India 3½%	70⅛	5	0	0	—		
India 3%	60⅛	5	0	0	—		
Sudan 4½% 1939-73	97	4	13	0	4	15	0
Sudan 4% 1974	87	4	12	0	4	17	0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 19 years)	83	3	13	0	4	8	0
Colonial Securities.							
Canada 3% 1938	86	3	10	0	4	16	0
Cape of Good Hope 4% 1916-36	94	4	5	0	4	19	6
Cape of Good Hope 3½% 1929-49	82	4	5	6	4	18	6
Commonwealth of Australia 5% 1945-75	98	4	18	0	5	2	0
Gold Coast 4½% 1956	96xd	4	14	0	4	17	6
Jamaica 4½% 1941-71	96	4	14	0	4	17	6
Natal 4% 1937	94	4	5	6	5	0	0
New South Wales 4½% 1935-45	90	5	0	0	5	7	0
New South Wales 5% 1945-65	98	5	2	0	5	3	0
New Zealand 4½% 1945	98	4	12	0	4	17	6
New Zealand 5% 1945	103xd	4	17	0	4	16	0
Queensland 5% 1940-60	98	5	2	0	5	0	6
South Africa 5% 1945-75	103	4	17	0	4	16	0
South Australia 5% 1945-75	98xd	5	2	0	5	2	0
Tasmania 5% 1945-75	102	4	18	0	5	0	0
Victoria 5% 1945-75	98	5	2	0	5	0	0
West Australia 5% 1945-75	99	5	1	0	5	2	6
Corporation Stocks.							
Birmingham 3% on or after 1947 or at option of Corporation	64xd	4	13	6	—		
Birmingham 5% 1946-56	104	4	16	0	4	15	0
Cardiff 5% 1945-65	103	4	18	0	4	16	6
Croydon 3% 1940-60	71	4	5	0	4	16	0
Hull 3½% 1925-55	80	4	7	6	5	0	0
Liverpool 3½% Redeemable at option of Corporation	74	4	14	0	—		
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	54	4	12	0	—		
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	65	4	13	0	—		
Manchester 3% on or after 1941	65	4	13	0	—		
Metropolitan Water Board 3% 'A' 1963-2003	66	4	11	0	4	12	6
Metropolitan Water Board 3% 'B' 1934-2003	66½	4	11	0	4	12	6
Middlesex C. C. 3½% 1927-47	84	4	3	6	4	17	0
Newcastle 3½% Irredeemable	73xd	4	16	0	—		
Nottingham 3% Irredeemable	64	4	12	6	—		
Stockton 5% 1946-66	104	4	16	0	4	19	0
Wolverhampton 5% 1946-56	103	4	17	0	4	19	9
English Railway Prior Charges.							
Gt. Western Rly. 4% Debenture	84	4	15	6	—		
Gt. Western Rly. 5% Rent Charge	102	4	18	0	—		
Gt. Western Rly. 5% Preference	97	5	3	0	—		
L. & N. E. Rly. 4% Debenture	78xd	5	4	0	—		
L. & N. E. Rly. 4% Guaranteed	74	5	8	0	—		
L. & N. E. Rly 4% 1st Preference	59	6	15	0	—		
L. Mid. & Scot. Rly. 4% Debenture	82xd	4	17	0	—		
L. Mid. & Scot. Rly. 4% Guaranteed	80½	4	19	0	—		
L. Mid. & Scot. Rly. 4% Preference	73	5	10	0	—		
Southern Railway 4% Debenture	82	4	17	0	—		
Southern Railway 5% Guaranteed	100	5	1	0	—		
Southern Railway 5% Preference	93	5	8	0	—		